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PTO/SB/21 (09-04)

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TRANSMITTAL  
FORM

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Total Number of Pages in This Submission

20

Application Number	10/758,970
Filing Date	January 13, 2004
First Named Inventor	Kevin T. Foley
Art Unit	3733
Examiner Name	Mary C. Hoffman
Attorney Docket Number	MSDI-223/PC444.06

## ENCLOSURES (Check all that apply)

- ☐ Fee Transmittal Form
- ☐ Fee Attached
- ☒ Amendment/Reply
- ☒ After Final
- ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Reply to Missing Parts/  
Incomplete Application
- ☐ Reply to Missing Parts  
under 37 CFR 1.52 or 1.53

- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a  
Provisional Application
- ☐ Power of Attorney, Revocation  
Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) \_\_\_\_\_
- ☐ Landscape Table on CD

- ☐ After Allowance Communication to TC
- ☐ Appeal Communication to Board  
of Appeals and Interferences
- ☐ Appeal Communication to TC  
(Appeal Notice, Brief, Reply Brief)
- ☐ Proprietary Information
- ☐ Status Letter
- ☒ Other Enclosure(s) (please identify  
below):
- Return Receipt Postcard

Remarks

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

First Name	Kraig DeVault LLP
Signature	
Printed name	Brad A. Schepers
Date	February 20, 2009
Reg. No.	45,431

## CERTIFICATE OF TRANSMISSION/MAILING

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Signature	
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Date	February 20, 2009

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re patent application of:	)	Before the Examiner
Foley et al.	)	Mary C. Hoffman
	)	
Application Serial No. 10/756,970	)	Group Art Unit 3733
	)	
Filed January 13, 2004	)	Ref. No. MSDI-223/
	)	PC444.06
	)	
SURGICAL INSTRUMENTATION AND	)	February 20, 2009
METHOD FOR TREATMENT OF THE SPINE	)	

**RESPONSE TO FINAL OFFICE ACTION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the final Office Action dated December 26, 2008, please enter and consider the following amendments and remarks. Additionally, please provide any extensions of time necessary and charge any additional fees which may be necessary to Deposit Account No. 12-2424, but not to include any payment of issue fees.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

February 20, 2009

Date of Deposit

Brad A. Schepers

Name of Registered Representative

Signature

February 20, 2009

Date of Signature

### **INTRODUCTORY COMMENTS**

Claims 55-63, 65-74 and 94-103 were pending in the subject application for the final Office Action dated December 26, 2008. Each of the pending claims currently stands rejected. In view of the following amendments and remarks, reconsideration and allowance of the subject application are hereby requested.